

*(As amended)*SPECIAL ORDINANCE NO. S- 88-84

AN AMENDED ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF A \$650,000 ECONOMIC DEVELOPMENT REVENUE BONDS OF THE CITY OF FORT WAYNE, INDIANA, FOR THE PURPOSE OF MAKING A LOAN TO PINES OF AMERICA INC., AN INDIANA CORPORATION, IN ORDER TO FINANCE THE ACQUISITION AND REHABILITATION OF CERTAIN ECONOMIC DEVELOPMENT FACILITIES LOCATED IN THE CITY AND AUTHORIZING EXECUTION OF CERTAIN DOCUMENTS RELATING THERETO.

WHEREAS, the City of Fort Wayne, Indiana (hereinafter of called the "City") is a municipal corporation and political subdivision of the State of Indiana and by virtue of IC 36-7-12, as amended (hereinafter called the "Act"), is authorized and empowered to adopt this ordinance (the "Bond Ordinance") and to carry out its provisions; and

WHEREAS, Pines of America, Inc. (the "Company") is a corporation duly organized and existing under and by virtue of the laws of the State of Indiana, with its principal office located in the City of Fort Wayne, Indiana, and duly qualified to conduct business in the State of Indiana; and

WHEREAS, the Company has agreed to acquire and rehabilitate economic development facilities in the City if the City will finance a portion of the cost of such acquisition and rehabilitation; and

WHEREAS, the Fort Wayne Economic Development Commission has performed all action required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to this Common Council the forms of (1) Bond Purchase Agreement (the "Bond Purchase Agreement") dated as of July 1, 1984, between the City and Harris Trust and Savings Bank, in Chicago, Illinois (the "Purchaser"), containing as an exhibit the form of economic development revenue bond herein authorized, (2) Loan Agreement (the "Loan Agreement") dated as of July 1, 1984, between the City and the Company, containing a form of Promissory Note (the "Note") from the Company and a form of Mortgage from the Company to the Purchaser, (3) Assignment and Security Agreement (the "Assignment") dated as of July 1, 1984, from the City in favor of the Purchaser securing the revenue Bond herein authorized and attached to the Bond Purchase Agreement as an exhibit; and (4) this Bond Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:



Section 1. Findings; Public Benefits. The Common Council of the City hereby finds and determines that the building, equipment and facilities in connection therewith (the "Project"), to be acquired and rehabilitated with the proceeds of the Economic Development Revenue Rehabilitating Bond herein authorized are "economic development facilities" as that phrase is used in the Act; that acquisition and rehabilitation of the Project will increase employment opportunities and increase diversification of economic development facilities in and near the City, will improve and promote the economic stability, development and welfare of the area in and near the City and will encourage and promote the expansion of industry, trade and commerce in the area in and near the City and the location of other new industries in such area; and that the public benefits to be accomplished by this Bond Ordinance, in tending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public services (as that phrase is used in the Act) which will be required by the Project.

Section 2. Authorization of Economic Development Revenue Bond. In order to pay a portion of the cost of acquiring and rehabilitating the Project, there is hereby authorized to be issued, sold and delivered a \$650,000 aggregate principal amount Economic Development Revenue Bond, Series 1984 (Pines of America, Inc. Project) of the City (the "Bond"). Any additional costs of the Project will be paid for by the Company.

Section 3. Terms for Bond. The total principal amount of the Bond is hereby expressly limited to \$650,000. The Bond shall be issued as a single Bond in fully registered form and shall be dated as of the first day of the month in which delivered and paid for.

The Bond shall bear interest ( subject to adjustments as provided in the Loan Agreement and Bond Purchase Agreement) on the unpaid principal balance thereof at a rate per annum equal to 68% of the Prime Rate (as defined in the Loan Agreement) plus eight percent (8%) per annum, which rate shall be in effect from the date of the Bond to the ninety-first day following such date of the Bond, and shall bear interest from and after said ninety-first day a rate per annum equal to 68% of the Prime Rate. Such interest shall be payable commencing January 1, 1985, and semi-annually thereafter on each July 1 and January 1 to and including July 1, 1994. Interest shall be calculated on the basis of a 360-day year and actual days elapsed. Principal on the Bond shall be due and payable in twenty (20) consecutive semiannual installments, each in the amount of \$32,500, payable commencing January 1, 1985, and on each July 1 and January 1 thereafter to and including January 1, 1994, with a final installment of principal in the amount of \$32,500 being due and payable on July 1, 1994.

Principal and interest and premium, if any, shall be payable at the principal office of the Purchaser in Chicago, Illinois.



The Bond shall be executed, shall be in such form, shall have such redemption provisions, and shall be subject to such other terms and conditions as set forth in the Indenture. The Bond and the interest thereon do not and shall never constitute an indebtedness of or a charge against the general credit or taxing power of the City, but is a limited obligation of the City payable solely from revenues and other amounts derived from the Loan Agreement and shall be secured as provided in the Assignment. Forms of the Bond Purchase Agreement, Loan Agreement and Assignment are before this meeting and are by this reference incorporated in this Bond Ordinance, and the City Clerk is hereby directed to insert them into the minutes of the Common Council and to keep them on file.

Section 4. Sale of the Bond; Bond Purchase Agreement.

The Mayor and the City Clerk of the City are hereby authorized and directed to sell the Bond to or upon the order of the Purchaser at a price of \$650,000 in accordance with the terms and conditions of the Bond Purchase Agreement in substantially the form submitted to the Common Council, which Bond Purchase Agreement is hereby approved in all respects. Deposit by the Purchaser to the credit of the City in immediately available funds at the principal office of the Purchaser in Chicago, Illinois, of the purchase price shall constitute payment in full for the Bond pursuant to Section 1.02 of the Bond Purchase Agreement. The Purchaser shall be authorized as agent for the City immediately to credit such purchase price to the separate bank account referred to in Section 1.08 of the Loan Agreement to effect the making of the loan of the proceeds of sale of the Bond to the Company pursuant to Section 1.02 of the Loan Agreement.

Section 5. Assignment. In order to secure the payment of the principal of and interest on the Bond, the Mayor and the City Clerk shall execute, acknowledge and deliver, in the name and on behalf of the City, the Assignment in substantially the form submitted to this Common Council, which is hereby approved in all respects.

Section 6. Loan Agreement. In order to provide for the loan of the proceeds of the Bond to acquire and rehabilitate the Project and the payment by the Company of an amount sufficient to pay the principal of and premium, if any, and interest on the Bond, the Mayor and the City Clerk shall execute, acknowledge and deliver in the name and on behalf of the City a Loan Agreement in substantially the form submitted to this Common Council, which is hereby approved in all respects.

Section 7. Acceptance of Note. In connection with the Bond, the City accepts as security for such Bond the Note of the Company. The Note shall be in substantially the form attached as an exhibit to the Loan Agreement.



Section 8. Registration of Bond; Persons Treated as Owners. The Issuer shall cause books (the "Bond Register") for the registration and for the transfer of the Bond as provided in this Bond Ordinance to be kept at the principal office of Harris Trust and Savings Bank, in Chicago, Illinois, as bond registrar (the "Bond Registrar"), which is hereby constituted and appointed the bond registrar of the City. The City is authorized to prepare, and the Bond Registrar shall keep custody of, multiple Bond blanks executed by the City for use in the transfer and exchange of the Bond.

Upon surrender or transfer of the Bond at the principal office of the Bond Registrar, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Bond Registrar and duly executed by, the registered owner or his attorney duly authorized in writing, the City shall execute and the Bond Registrar shall authenticate, date and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of the same maturity of authorized denominations, for a like aggregate principal amount. Any fully registered Bond or Bonds may be exchanged at said office of the Bond Registrar for a like aggregate principal amount of Bond or Bonds of the same maturity of other authorized denominations. The execution by the City of any fully registered Bond shall constitute full and due authorization of such Bond and the Bond Registrar shall thereby be authorized to authenticate, date and deliver such Bond, provided, however, the principal amount of outstanding Bond of each maturity authenticated by the Bond Registrar shall not exceed the authorized principal amount of Bond for such maturity less previous retirements.

The Bond Registrar shall not be required to transfer or exchange the Bond during the period of fifteen (15) calendar days next preceding any interest payment date on the Bond, nor to transfer or exchange the Bond after notice calling the Bond for redemption has been mailed, nor during a period of fifteen (15) calendar days next preceding mailing of a notice of redemption of the Bond.

The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal of, premium, of interest of any Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

No service charge shall be made for any transfer or exchange of Bonds, but the City or the Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds.

Section 9. No-Arbitrage. The proceeds of issuance and delivery of the Bond shall be deposited in a commercial bank account and used for the purposes for which said Bond is authorized. The principal proceeds of the Bond hereby authorized shall be devoted



to and used with due diligence for the acquisition and construction of the Project. The Mayor and the City Clerk are hereby authorized and directed to execute such certificate with respect to the use of the proceeds of said Bond as may be necessary or desirable pursuant to the provisions of Section 103(c) of the Internal Revenue Code of 1954, as amended, and regulations thereunder, including Sections 1.103-13 and 1.103-14 of the Federal Income Tax Regulations. Such certificate shall constitute a certification and representation of the City, and the City will take no action in contravention of the expectations prescribed by such certificate.

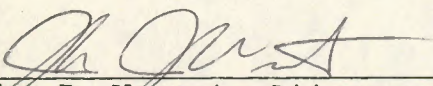
Section 10. General. The Mayor and the City Clerk be and they are each hereby authorized and directed, in the name and on behalf of the City, to execute any and all instruments, perform any and all acts, approve any and all matters, and do any and all things deemed by them, or either of them, to be necessary or desirable in order to carry out the purposes of this Bond Ordinance (including the preambles hereto), the acquisition and rehabilitation of the Project by the Company, the issuance and sale of the Bond, and the securing of the Bond under the Assignment.

SECTION 11. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon its adoption by the Common Council.

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COUNCILMAN

APPROVED AS TO FORM AND  
LEGALITY.

  
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John J. Wernet, Attorney for the  
Economic Development Commission  
Dated this 23rd day of July, 1984.



SPECIAL ORDINANCE NO. S-\_\_\_\_\_

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF A \$650,000 ECONOMIC DEVELOPMENT REVENUE BOND OF THE CITY OF FORT WAYNE, INDIANA, FOR THE PURPOSE OF MAKING A LOAN TO PINES OF AMERICA INC., AN INDIANA CORPORATION, IN ORDER TO FINANCE THE ACQUISITION AND REHABILITATION OF CERTAIN ECONOMIC DEVELOPMENT FACILITIES LOCATED IN THE CITY AND AUTHORIZING EXECUTION OF CERTAIN DOCUMENTS RELATING THERETO.

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WHEREAS, the Company has agreed to acquire and rehabilitate economic development facilities in the City if the City will finance a portion of the cost of such acquisition and rehabilitation; and

WHEREAS, the Fort Wayne Economic Development Commission has performed all action required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to this Common Council the forms of (1) Bond Purchase Agreement (the "Bond Purchase Agreement") dated as of July 1, 1984, between the City and Harris Trust and Savings Bank, in Chicago, Illinois (the "Purchaser"), containing as an exhibit the form of economic development revenue bond herein authorized, (2) Loan Agreement (the "Loan Agreement") dated as of July 1, 1984, between the City and the Company, containing a form of Promissory Note (the "Note") from the Company and a form of Mortgage from the Company to the Purchaser, (3) Assignment and Security Agreement (the "Assignment") dated as of July 1, 1984, from the City in favor of the Purchaser securing the revenue Bond herein authorized and attached to the Bond Purchase Agreement as an exhibit; and (4) this Bond Ordinance;

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Section 3. Terms for Bond. The total principal amount of the Bond is hereby expressly limited to \$650,000. The Bond shall be issued as a single Bond in fully registered form and shall be dated as of the first day of the month in which delivered and paid for.

The Bond shall bear interest ( subject to adjustments as provided in the Loan Agreement and Bond Purchase Agreement) on the unpaid principal balance thereof at a rate per annum equal to 68% of the Prime Rate (as defined in the Loan Agreement) plus eight percent (8%) per annum, which rate shall be in effect from the date of the Bond to the ninety-first day following such date of the Bond, and shall bear interest from and after said ninety-first day a rate per annum equal to 68% of the Prime Rate. Such interest shall be payable commencing January 1, 1985, and semi-annually thereafter on each July 1 and January 1 to and including July 1, 1994. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. Principal on the Bond shall be due and payable in twenty (20) consecutive semiannual installments, each in the amount of \$32,500, payable commencing January 1, 1985, and on each July 1 and January 1 thereafter to and including January 1, 1994, with a final installment of principal in the amount of \$32,500 being due and payable on July 1, 1994. The final payment of principal and interest on the Bond shall be due and payable at maturity on July 1, 1994, and shall be in an amount equal to all unpaid principal and interest on said date.



Principal and interest and premium, if any, shall be payable at the principal office of the Purchaser in Chicago, Illinois.

The Bond shall be executed, shall be in such form, shall have such redemption provisions, and shall be subject to such other terms and conditions as set forth in the Indenture. The Bond and the interest thereon do not and shall never constitute an indebtedness of or a charge against the general credit or taxing power of the City, but is a limited obligation of the City payable solely from revenues and other amounts derived from the Loan Agreement and shall be secured as provided in the Assignment. Forms of the Bond Purchase Agreement, Loan Agreement and Assignment are before this meeting and are by this reference incorporated in this Bond Ordinance, and the City Clerk is hereby directed to insert them into the minutes of the Common Council and to keep them on file.

Section 4. Sale of the Bond; Bond Purchase Agreement.

The Mayor and the City Clerk of the City are hereby authorized and directed to sell the Bond to or upon the order of the Purchaser at a price of \$650,000, plus accrued interest to the date of delivery and payment in accordance with the terms and conditions of the Bond Purchase Agreement in substantially the form submitted to the Common Council, which Bond Purchase Agreement is hereby approved in all respects. Deposit by the Purchaser to the credit of the City in immediately available funds at the principal office of the Purchaser in Chicago, Illinois, of the purchase price shall constitute payment in full for the Bond pursuant to Section 1.02 of the Bond Purchase Agreement. The Purchaser shall be authorized as agent for the City immediately to credit such purchase price to the separate bank account referred to in Section 1.08 of the Loan Agreement to effect the making of the loan of the proceeds of sale of the Bond to the Company pursuant to Section 1.02 of the Loan Agreement.

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Section 8. Registration of Bond; Persons Treated as Owners.

The Issuer shall cause books (the "Bond Register") for the registration and for the transfer of the Bond as provided in this Bond Ordinance to be kept at the principal office of Harris Trust and Savings Bank, in Chicago, Illinois, as bond registrar (the "Bond Registrar"), which is hereby constituted and appointed the bond registrar of the City. The City is authorized to prepare, and the Bond Registrar shall keep custody of, multiple Bond blanks executed by the City for use in the transfer and exchange of the Bond.

Upon surrender or transfer of the Bond at the principal office of the Bond Registrar, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Bond Registrar and duly executed by, the registered owner or his attorney duly authorized in writing, the City shall execute and the Bond Registrar shall authenticate, date and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of the same maturity of authorized denominations, for a like aggregate principal amount. Any fully registered Bond or Bonds may be exchanged at said office of the Bond Registrar for a like aggregate principal amount of Bond or Bonds of the same maturity of other authorized denominations. The execution by the City of any fully registered Bond shall constitute full and due authorization of such Bond and the Bond Registrar shall thereby be authorized to authenticate, date and deliver such Bond, provided, however, the principal amount of outstanding Bond of each maturity authenticated by the Bond Registrar shall not exceed the authorized principal amount of Bond for such maturity less previous retirements.

The Bond Registrar shall not be required to transfer or exchange the Bond during the period of fifteen (15) calendar days next preceding any interest payment date on the Bond, nor to transfer or exchange the Bond after notice calling the Bond for redemption has been mailed, nor during a period of fifteen (15) calendar days next preceding mailing of a notice of redemption of the Bond.

The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal of, premium, of interest of any Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

No service charge shall be made for any transfer or exchange of Bonds, but the City or the Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds.

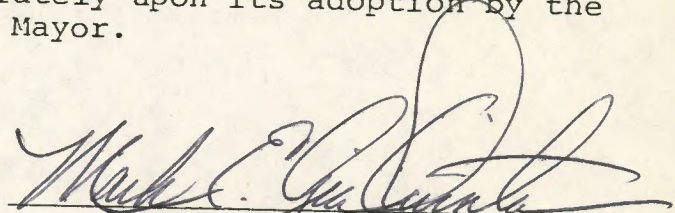
Section 9. No-Arbitrage. The proceeds of issuance and delivery of the Bond shall be deposited in a commercial bank account and used for the purposes for which said Bond is authorized. The principal proceeds of the Bond hereby authorized shall be devoted to and used with due diligence for the acquisition and construction



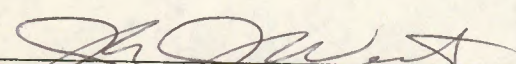
of the Project. The Mayor and the City Clerk are hereby authorized and directed to execute such certificate with respect to the use of the proceeds of said Bond as may be necessary or desirable pursuant to the provisions of Section 103(c) of the Internal Revenue Code of 1954, as amended, and regulations thereunder, including Sections 1.103-13 and 1.103-14 of the Federal Income Tax Regulations. Such certificate shall constitute a certification and representation of the City, and the City will take no action in contravention of the expectations prescribed by such certificate.

Section 10. General. The Mayor and the City Clerk be and they are each hereby authorized and directed, in the name and on behalf of the City, to execute any and all instruments, perform any and all acts, approve any and all matters, and do any and all things deemed by them, or either of them, to be necessary or desirable in order to carry out the purposes of this Bond Ordinance (including the preambles hereto), the acquisition and rehabilitation of the Project by the Company, the issuance and sale of the Bond, and the securing of the Bond under the Assignment.

Section 11. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon its adoption by the Common Council and signing by the Mayor.

  
COUNCILMAN

APPROVED AS TO FORM AND  
LEGALITY.

  
John J. Wernet, Attorney for the  
Fort Wayne Economic Development Commission  
Dated this 9<sup>th</sup> day of July, 1984.



Read the first time in full and on motion by Stier,  
seconded by Quinn, and duly adopted, read the second time  
by title and referred to the Committee Finance (and the City  
Plan Commission for recommendation) and Public Hearing to be held after  
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,  
Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ .M., E.S.

DATE: 7-10-84

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Mike Jantz,  
seconded by Stier, and duly adopted, placed on its  
passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 8-14-84

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort  
Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)

(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. 1-88-84

on the 14th day of August, 1984,

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Ray A. Ebert  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,  
on the 15th day of August, 1984,  
at the hour of 8:30 o'clock A.M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 15th day of August,  
1984, at the hour of 9:00 A.M. o'clock A.M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR



BILL NO. S-84-07-16 (as amended)

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN  
ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF A \$650,000 ECONOMIC  
DEVELOPMENT REVENUE BOND OF THE CITY OF FORT WAYNE, INDIANA, FOR THE  
PURPOSE OF MAKING A LOAN TO PINES OF AMERICA INC., AN INDIANA CORPORATION,  
IN ORDER TO FINANCE THE ACQUISITION AND REHABILITATION OF CERTAIN ECONOMIC  
DEVELOPMENT FACILITIES LOCATED IN THE CITY AND AUTHORIZING EXECUTION OF  
CERTAIN DOCUMENTS RELATING THERETO

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

MARK E. GIAQUINTA, CHAIRMAN

JAMES S. STIER, VICE CHAIRMAN

JANET G. BRADBURY

THOMAS C. HENRY

DONALD J. SCHMIDT

*Just the*  
*Janet G. Bradbury*  
*Thomas C. Henry*  
*D Schmidt*

CONCURRED IN 8-14-84  
SANDRA E. KENNEDY, CITY CLERK